IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

CIVIL APPLICATION NO.2138 OF 2005
IN
WRIT PETITION NO.7462 OF 2003

Mrs.Amisha Sharma @ Amisha Ansari)..Applicant (Org.Resp.No.3)

Versus

Vishwas G.Harne and others)..Respondents (No.1-Org.Petnr)

Mr.S.G.Kudle for the Applicant.

Mr.S.A.Sawant for Respondent No.1.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 19TH AUGUST 2005

P.C.:

. The present Civil Application has been taken out by the Applicant-original Respondent No.3. She contends that she was unable to remain present in Court due to various difficulties as detailed in the Civil Application when the Writ Petition was admitted and interim orders were passed, although she was served with the same. It is now prayed on her behalf that the order in the Writ Petition granting interim relief in terms of prayer clauses (c) and (d) be modified. According to her, the relationship of the licensor and licensee has not been established and, therefore, there ought not to have been a direction against her in terms of prayer

clause (d) of the Writ Petition. Prayer (d) directs the original Respondent No.3 to pay Rs.4,68,000/- to Respondent No.1-original Petitioner towards licence fees/ compensation from 2nd February 1997 till 31st August 2003.

2. Heard Advocates.

3. According to the learned Advocate for Respondent No.1-original Petitioner, the Applicant is in possession of the suit premises and is not paying the society charges i.e. the maintenance charges of the society. The society has demanded an amount of Rs.3,55,000/- upto 31st August 2005 on the basis of monthly amount of Rs.1800/-. The amount mentioned in prayer clause (d) includes the monthly compensation and the society charges.

4. In my view, the order dated 24th November 2003 passed in the Writ Petition will have to be modified to the following extent :

> "The order dated 25th November 2003 granting interim relief in terms of prayer clause (d) is recalled. However, Respondent No.3 in the Writ Petition i.e. the Applicant herein, will pay the society charges as demanded by the society within eight weeks from today and continue to pay the monthly maintenance charges to the society. The society charges will be paid over by Respondent No.3 to the Petitioner

> who will then forward the same to the society during the pendency of the Writ Petition."

5. It is made clear that in the event the Writ Petition is dismissed, the Petitioner will refund the amount which the Respondent No.3 to the Writ Petition has been directed to pay to the society with interest as quantified at the final hearing of the Writ Petition. The other stipulations in the order dated 24th November 2003 shall continue pending the final hearing of the Writ Petition.

6. Civil Application disposed of accordingly.